

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY MOCK,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 3:20-cv-178
)	Judge Stephanie L. Haines
CAMBRIA COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This is a civil rights case brought under 42 U.S.C. § 1983 by Timothy Mock (“Plaintiff”), a prisoner currently incarcerated at SCI-Albion. In his complaint (ECF No. 8), Plaintiff alleges Defendants Cambria County, Prime Care Medical, Inc., Cambria County Prison, Christian M. Smith, William D. Patterson, Craig J. Descabish, K. Wolford, Karen Kull, and “Psychiatrist Paula” violated his constitutional rights while he was incarcerated in Cambria County Prison. Plaintiff includes, *inter alia*, deliberate indifference claims under the Eighth Amendment relating to several seizures he experienced during the period of January 25, 2019 to February 16, 2019. This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

After screening Plaintiff’s complaint under 28 U.S.C. §1915(e)(2) and 28 U.S.C. §1915A, Magistrate Judge Pesto filed an Order, Report and Recommendation (ECF No. 7) on November 4, 2020, which granted Plaintiff leave to proceed *in forma pauperis* and recommended that the complaint be dismissed in part with leave to amend. Specifically, Magistrate Judge Pesto found that Plaintiff adequately stated a deliberate indifference claim under the Eighth Amendment against the Defendant identified as “Psychiatrist Paula” but that Plaintiff failed to state an adequate

claim against the other Defendants. The Report and Recommendation (ECF No. 7) advises Plaintiff that he has fourteen (14) days to file objections. Plaintiff did not file objections, and the time to do so has expired.

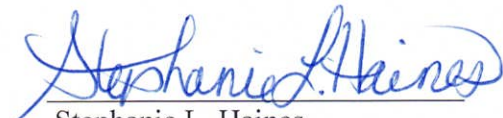
Upon review of the Report and Recommendation (ECF No. 7) and the other documents filed in this case under the applicable “reasoned consideration” standard, *see EEOC V. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Pesto in this matter. Magistrate Judge Pesto properly determines Plaintiff stated a deliberate indifference claim against the named psychiatrist Defendant, and correctly finds that, while Plaintiff has failed to state an adequate claim against the other Defendants in the case, it is not futile or inequitable at this time to grant Plaintiff leave to amend his complaint. *See Grayson v. Mayview State Hospital*, 293 F. 3d 103 (3d Cir. 2002). If Plaintiff wishes to file an amended complaint to pursue the claims dismissed herein, his deadline for doing so is **February 19, 2021**. Plaintiff is reminded that the amended complaint must be complete in all respects and must be a new pleading which stands by itself without reference to the complaint already filed. If Plaintiff does not timely file an amended complaint by such date, the claims dismissed without prejudice under this order shall convert to dismissal with prejudice without further order or notice.

Accordingly, the following order is entered:

ORDER

AND NOW, this 29th day of January, 2021, IT IS ORDERED that Plaintiff’s claims against Defendants Cambria County, Prime Care Medical, Inc., Cambria County Prison, Christian M.

Smith, William D. Patterson, Craig J. Descabish, K. Wolford, and Karen Kull are hereby DISMISSED WITHOUT PREJUDICE. IT IS FURTHER ORDERED that Plaintiff may file an amended complaint in this case on or before **February 19, 2021**. If Plaintiff does not timely file an amended complaint by such date, the claims dismissed without prejudice under this order shall convert to dismissal with prejudice without further order or notice. IT IS FURTHER ORDERED that Magistrate Judge Pesto's Report and Recommendation (ECF No. 7) is adopted as the opinion of the Court.



Stephanie L. Haines
United States District Judge